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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-----------------|-----------------------|-------------------------|------------------|
| 09/823,648 | 03/30/2001 | James C. Marsters JR. | P1819R1 | 8510 |
| 9157 7 | 7590 03/25/2003 | | | |
| GENENTECH, INC. | | | EXAMINER | |
| 1 DNA WAY SOUTH SAN FRANCISCO, CA 94080 | | | CHAKRABARTI, ARUN K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1634 | |
| | | | DATE MAH ED: 03/25/2003 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No. 09/823,648

Applicant(s)

Lowe

Examiner

Arun Chakrabarti

Art Unit 1634

| | The MAILING DATE of this communication appears on the cover sheet with the correspondence address |
|--|---|
| There [.] ejecti allowa | FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. fore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final on under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for ance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination in compliance with 37 CFR 1.114. THE PERIOD FOR REPLY [check only a) or b)] |
| ۵) | The period for reply expires months from the mailing date of the final rejection. |
| b) | The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). |
| ext | tensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate tension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The propriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally tin the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the silling date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). |
| 1. 🗆 | A Notice of Appeal was filed on Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal. |
| 2. 🗌 | The proposed amendment(s) will not be entered because: |
| (a) | they raise new issues that would require further consideration and/or search (see NOTE below); |
| (b) | they raise the issue of new matter (see NOTE below); |
| | they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or |
| (d) | they present additional claims without canceling a corresponding number of finally rejected claims. |
| | NOTE: |
| 3.□ | Applicant's reply has overcome the following rejection(s): |
| 4.□ | Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). |
| 5. X | The a) $\overline{\mathbb{X}}$ affidavit, b) $\overline{\mathbb{X}}$ exhibit, or c) $\overline{\mathbb{X}}$ request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See attached sheet.</u> |
| 6. 🗆 | The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection. |
| 7. 🗆 | For purposes of Appeal, the proposed amendment(s) a) \square will not be entered or b) \square will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. |
| | The status of the claim(s) is (or will be) as follows: |
| | Claim(s) allowed: |
| | Claim(s) objected to: |
| | Claim(s) rejected: |
| | Claim(s) withdrawn from consideration: |
| 8. 🗀 | The proposed drawing correction filed on is a) approved or b) disapproved by the Examiner. |
| 9. 🗆 | Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) |
| 0.□ | Other: |
| | |

Applicant's request for reconsideration to withdraw the final rejection of the last office action along with 131 declaration and exhibit A have been considered but does not place the application in condition of allowance because of the following reasons:

A) Declaration under 37 CFR 1.131 is not timely as it has been submitted after the final rejection.

B) The declaration under 37 CFR 1.131 is not persuasive because it is insufficient to meet the scope of the claims. Especially, exhibit A does not disclose one of the essential elements of the claimed product, "wherein the target molecule is attached to the surface via the silane".

Therefore, the request for reconsideration to withdraw the final rejection of the last office action along with 131 declaration and exhibit A have not been entered.

GARY BENZION, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1800